

ORIGINAL

(Do not write above this line.)

State Bar Court of California Hearing Department		
STAYED SUSPENSION		
Counsel For The State Bar Timothy G. Byer Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017-2515 (213) 765-1325 Bar # 172472	Case Number(s): 16-O-13178, 16-O-18173 <div style="text-align: center;"> <small>kwiktag®</small> <div style="display: flex; justify-content: space-around;">  <small>226 164 899</small> </div> </div>	For Court use only <div style="text-align: center;"> FILED JAN 18 2018 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In Pro Per Respondent Justin D. Graham 12777 W. Jefferson Bl., Bldg. D, 3rd Floor Los Angeles, CA 90066 (310) 215-1113 Bar # 219791	PUBLIC MATTER	
In the Matter of: JUSTIN DRAYTON GRAHAM Bar # 219791 A Member of the State Bar of California (Respondent)	Submitted to: Settlement Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING STAYED SUSPENSION; NO ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **June 4, 2002**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **11** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".

(Effective July 1, 2015)

Stayed Suspension

- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Costs are added to membership fee for calendar year following effective date of discipline.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure). If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case **16-O-11526 (Attached as Exhibit 1, 18 pages.)**
 - (b) ☒ Date prior discipline effective **pending**
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **Business and Professions Code section 6104, Business and Professions Code section 6068(c), and Business and Professions Code section 6068(d).**
 - (d) ☒ Degree of prior discipline **Two years of stayed suspension and two years of probation conditions, with probation conditions including 90 days of actual suspension.**
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property..

- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. See page 9
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☒ **No Harm:** Respondent did not harm the client, the public, or the administration of justice. **See page 9**
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances

Profiling stipulation. See page 9

D. Discipline:

- (1) ☒ **Stayed Suspension:**
- (a) ☒ Respondent must be suspended from the practice of law for a period of **one year**.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

The above-referenced suspension is stayed.

- (2) ☒ **Probation:**

Respondent is placed on probation for a period of **one year**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court.)

E. Additional Conditions of Probation:

- (1) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) ☐ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the

probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.

- (4) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (6) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.

- (7) ☐ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.

☒ No Ethics School recommended. Reason: **Respondent is currently awaiting effectuation of his stipulation to discipline in State Bar Case No. 16-O-11526. Compliance with the order to complete State Bar Ethics School pursuant that discipline will be deemed compliance with that condition here.**

- (8) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

- (9) ☐ The following conditions are attached hereto and incorporated:

☐ Substance Abuse Conditions

☐ Law Office Management Conditions

☐ Medical Conditions

☐ Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) ☐ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

☒ No MPRE recommended. Reason: **Respondent is currently awaiting effectuation of his stipulation to discipline in State Bar Case No. 16-O-11526. Compliance with the order to complete an MPRE condition pursuant that discipline will be deemed compliance with that condition here.**

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JUSTIN DRAYTON GRAHAM

CASE NUMBERS: 16-O-13178, 16-O-18173

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 16-O-13178 (State Bar Investigation)

FACTS:

1. On May 26, 2010, respondent added his office manager, a non-attorney, as an authorized signatory on his client trust account with Wells Fargo Bank, account no. x x x x x - 8461¹ ("CTA"). Between February 23, 2016 and March 14, 2016, respondent gave control of his CTA to that non-attorney employee, and thereafter failed to supervise that non-attorney's usage of the CTA. Neither respondent nor the non-attorney employee properly reconciled respondent's CTA.
2. On February 17, 2016, respondent received on behalf of his client, Carlos DeLeon Gonzalez, a settlement check made payable to respondent and Gonzalez in the amount of \$9,000. On February 22, 2016, respondent deposited the \$9,000 into his CTA on behalf of Gonzalez. Of this amount, Gonzalez's medical care provider, namely Pacific Wellness Center, was entitled to \$1,500, pursuant to a negotiated lien held against Gonzalez's recovery.
3. Respondent failed to maintain a balance of \$1,500 on behalf of Pacific Wellness Center in respondent's CTA, because respondent's non-attorney employee effected an online transfer from respondent's CTA which caused the balance in the CTA to dip below \$1,500.
4. On March 8, 2016, respondent received, on behalf of his client Yasmin Duenas, a settlement check made payable to respondent and Duenas in the amount of \$3,700. On March 8, 2016, respondent deposited the \$3,700 into his CTA on behalf of Duenas. Of this amount, Duenas's medical care provider, Central Chiropractic & Rehabilitation Center, was entitled to \$1,233.33, pursuant to a negotiated lien held against Duenas's recovery.
5. Respondent failed to maintain a balance of \$1,233.33 on behalf of Central Chiropractic & Rehabilitation Center in respondent's CTA, because respondent's non-attorney employee wrote, and respondent signed, checks from respondent's CTA which caused the balance in the CTA to dip below \$1,233.33.

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¹ Full account number omitted for privacy purposes.

6. Respondent repeatedly issued the following checks drawn upon respondent's CTA when respondent knew or was grossly negligent in not knowing that there was insufficient funds in the CTA to pay them, as follows:

<u>Check Number</u>	<u>Check Amount</u>	<u>Date of Presentation</u>	<u>Bank Action</u>	<u>Account Balance</u>
1585	\$1,500.00	March 3, 2016	Paid	\$826.78-
1596	\$1,833.33	March 14, 2016	Paid	\$461.78-
1595	\$1,233.33	March 21, 2016	Paid	\$1,233.33-

CONCLUSIONS OF LAW:

7. By failing to supervise the maintenance of his CTA by the non-attorney employee he had added as a signatory thereto, respondent repeatedly failed to perform legal services with competence in willful violation of Rules of Professional Conduct, rule 3-110(A).

8. By not maintaining a balance of \$1,500 on behalf of Pacific Wellness Center in respondent's CTA, respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation of Rules of Professional Conduct, rule 4-100(A).

9. By not maintaining a balance of \$1,233.33 on behalf of Central Chiropractic & Rehabilitation Center in respondent's CTA, respondent failed to maintain the balance of funds received for the benefit of a client and deposited in a bank account labeled "Trust Account," "Client's Funds Account" or words of similar import, in willful violation of Rules of Professional Conduct, rule 4-100(A).

10. By repeatedly issuing checks drawn upon his CTA when he knew or was grossly negligent in not knowing that there was insufficient funds in the CTA to pay them, respondent willfully committed acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

Case No. 16-O-18173 (Complainant: Carlos Guardado)

FACTS:

11. Carlos Guardado and Michael Salinas were involved in an automobile accident on October 13, 2014. Guardado was the driver of one of two vehicles involved in the accident and Salinas was his passenger in the same vehicle.

12. Guardado employed respondent for legal services concerning the automobile accident and recommended that Salinas do the same. Salinas, who had initially retained his own attorney, later employed respondent for his legal services in the same matter and signed a written fee agreement with respondent on October 21, 2014. Guardado signed a written fee agreement with respondent on November 4, 2014.

13. During their separate intake interviews with respondent, Guardado and Salinas both represented to respondent that a police officer had arrived on the scene shortly after the accident, that the police officer had taken the statements of Guardado, Salinas, at least one disinterested witness to the accident, and the driver of the other vehicle.

14. Guardado and Salinas both represented to respondent that the driver of the other vehicle had entered the intersection against a red light and struck their vehicle.

15. Respondent's fee agreements with Guardado and Salinas did not inform Guardado and Salinas that their interests potentially conflicted, and neither client gave respondent their informed written consent to respondent's representation despite the potential conflict.

CONCLUSION OF LAW:

16. By accepting representation of more than one client in a matter in which the interests of the clients potentially conflicted without the informed written consent of each client, respondent wilfully violated Rules of Professional Conduct, rule 3-310(C)(1).

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): On August 21, 2017, Respondent stipulated to appearing without authority in violation of Business and Professions Code section 6104, maintenance of an unjust action in violation of Business and Professions Code section 6068(c), and misleading the court in violation of Business and Professions Code section 6068(d). The misconduct was mitigated by a lack of prior discipline and a prefiling stipulation, and was aggravated by multiple acts of misconduct, significant client harm, and indifference. Respondent stipulated to two years of stayed suspension and two years of probation conditions, with probation conditions including 90 days of actual suspension.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent has committed eight separate acts of misconduct.

MITIGATING CIRCUMSTANCES.

Remedial Measures: Following the insufficient check activity on his CTA, respondent removed his non-attorney employee from access to the CTA. (*In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 416-417 [where the attorney's voluntary correction of lax office policies and inadequate employee supervision held to be a mitigating circumstance].)

Lack of Harm to Client, Public or Administration of Justice (Std. 1.6(c)): The NSF checks were all paid and no clients lost any money by the failure to supervise or to maintain client funds in trust, and the reporting to the State Bar of the NSF checks did not ripen into any harm to the administration of justice; neither did the misrepresentation to the State Bar mislead us, nor did the potential conflict between Salinas and Guardado ripen into an actual conflict.

Prefiling Stipulation: By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spait*

(Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member’s willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent admits to committing eight acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to respondent’s misconduct is found in standard is Std. 2.1 for the misappropriations represented by the three NSF checks written on respondent’s CTA, which provides that “actual suspension is the presumed sanction for misappropriation involving gross negligence.”

Respondent’s committed the misconduct in this matter between October 21, 2014 and March 9, 2016, the same time frame represented in his prior discipline. As such, the prior discipline and the current misconduct should be analyzed together to determine the appropriate level of discipline as set forth in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602. In *Sklar*, an attorney with prior discipline was involved in a second disciplinary proceeding involving misconduct which occurred during the same time period as his prior discipline. The court acknowledged that “... part of the rationale for considering a prior discipline as having an aggravating impact is that it is indicative of a recidivist attorney’s inability to conform his or her conduct to ethical norms [citation]. It is therefore appropriate to consider the fact that the misconduct involved here was contemporaneous with the misconduct in the prior case.” *Sklar, supra* at 619. *Sklar* concluded that it was appropriate to consider the totality of the misconduct in the attorney’s prior discipline and the pending matters to determine what discipline was appropriate had all the misconduct been brought together rather than separately.

A similar rationale and application is appropriate here. Respondent's misconduct in the current matter occurred at the same time as the misconduct in his prior discipline. Rather than considering a strict application of the standards to the current misconduct as if it was subsequent and further misconduct committed by an attorney displaying an inability to conform his conduct to ethical norms, it is appropriate to consider the current misconduct together with his prior misconduct which all occurred during the same time period.

Considering, per *Sklar*, the totality of the findings in these two cases to determine what the discipline would have been had all the charged misconduct in this period (including his prior discipline) been brought as one case, two years of stayed suspension and two years of probation conditions, with probation conditions including 90 days of actual suspension is sufficient to protect the public. No additional discipline is necessary.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of December 18, 2017, the discipline costs in this matter are \$4,241. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT

Respondent may not receive MCLE credit for completion of State Bar Ethics School ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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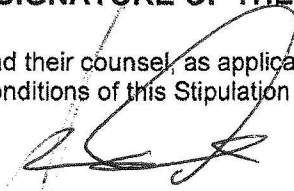
In the Matter of:
JUSTIN DRAYTON GRAHAM

Case number(s):
16-O-13178, 16-O-18173

SIGNATURE OF THE PARTIES

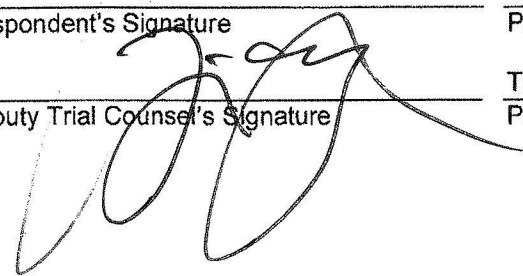
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

12/21/17
Date


Respondent's Signature

Justin D. Graham
Print Name

12.21.17
Date


Deputy Trial Counsel's Signature

Timothy G. Byer
Print Name

(Do not write above this line.)

In the Matter of:
JUSTIN DRAYTON GRAHAM

Case Number(s):
16-O-13178, 16-O-18173

STAYED SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and;

- ☐ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☒ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated

- 1) On page 3 of the Stipulation, in B. (11) Multiple Acts, "See page 9" is deleted and in its place is inserted "See page 8"
- 2) On page 3 of the Stipulation, in C. (2) No Harm, "See page 9" is deleted and in its place is inserted "See page 8"

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

YVETTE D. ROLAND
Judge of the State Bar Court

ORIGINAL

(Do not write above this line.)

<p align="center">State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION</p>		
<p>Counsel For The State Bar</p> <p>Anita Kabaei Deputy Trial Counsel 845 S. Figueroa Street Los Angeles, CA 90017 (213) 765-1248</p> <p>Bar # 270209</p>	<p>Case Number(s): 16-O-11526-YDR</p>	<p>For Court use only</p> <p align="center">FILED</p> <p align="center">SEP 21 2017 <i>he</i></p> <p align="center">STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>Counsel For Respondent</p> <p>Zachary D. Wechsler Law Office of Zachary D. Wechsler, APC 21515 Hawthorne Blvd., #610 Torrance, CA 90503 (310) 642-4600</p> <p>Bar # 198354</p>	<p align="center">PUBLIC MATTER</p>	
<p>In the Matter of: JUSTIN DRAYTON GRAHAM</p> <p>Bar # 219791</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>Submitted to: Settlement Judge</p> <p>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING</p> <p>ACTUAL SUSPENSION</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	

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- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☒ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☐ Costs are to be paid in equal amounts prior to February 1 for the following membership years: (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
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 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by, misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by, concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by, overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code, or the Rules of Professional Conduct.
- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(Do not write above this line.)

- (8) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice. (See attachment, page 9)
- (9) ☒ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. (See attachment, page 9)
- (10) ☐ **Candor/Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☒ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. (See attachment, page 9)
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

(Do not write above this line.)

- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

No prior discipline. (see attachment, pages 9-10)

Profiling stipulation. (see attachment, page 10)

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of **two years**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of **two years**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of **ninety (90) days**.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and fitness to practice and present learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and present learning and ability in the general law, pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
☐ No Ethics School recommended. Reason: _____
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JUSTIN DRAYTON GRAHAM

CASE NUMBER: 16-O-11526

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 16-O-11526 (Complainant: Schalisa Curtis)

FACTS:

1. Schalisa Curtis ("Curtis") currently lives in Little Rock, Arkansas and owned a property in Los Angeles, California. Her property in Los Angeles was foreclosed upon and a trustee sale was scheduled for January 8, 2016. Curtis's property was a "Section 8" property subject to special rental limitations based on low income housing laws, which Curtis was leasing to a tenant.
2. On or about November 17, 2014, the tenant's mother, Kathy Smith ("Buyer"), entered into a purchase agreement with Curtis to buy the property for \$500,000. Curtis intended to choose one broker to represent both the Buyer and herself. Buyer decided to hire her own broker.
3. On or about January 21, 2015, Curtis contacted her real estate broker, Gregory Bass ("Bass"), and expressed her disappointment with Buyer hiring her own broker. Curtis then served Tenant with a 90-Day Notice of Termination of Tenancy.
4. On January 7, 2016, Curtis received a telephone call at 11:33 pm from Bass. During the conversation, Bass suggested that Curtis file a bankruptcy in order to be afforded more time to sell the property. In response, Curtis rejected bankruptcy as an option at the time and told Bass such a major decision would require Curtis to "sleep on it."
5. Without Curtis's knowledge or consent, Buyer contacted respondent the night of January 7, 2016 and spoke to him about the possibility of Curtis needing to file an emergency Chapter 13 bankruptcy in order to stop the trustee sale of Curtis's property so that the parties could consummate the sale of Curtis' property, and that Bass would contact Buyer to confirm whether Curtis intended to proceed with the bankruptcy. Concurrent with the Buyer's offer to purchase the property from Curtis, the Buyer also made a prospective offer to purchase the property from the foreclosing lender upon the prospective sale of the property.
6. On the morning of January 8, 2016, prior to the trustee sale, Buyer had not received any confirmation from Curtis regarding Curtis's intent to proceed with the bankruptcy. Buyer then contacted respondent and erroneously informed respondent that Curtis and Bass authorized Buyer to contact respondent to file a Chapter 13 bankruptcy in order to prevent the trustee sale of the property.

Buyer also informed respondent that the lender had not accepted her offer to purchase the property. Buyer provided respondent with Curtis's address and social security number. At no time did respondent confirm with either Curtis or Bass whether Curtis intended to actually file a bankruptcy petition, and respondent did not contact Curtis to obtain her consent to filing the petition or to discuss the bankruptcy with her.

7. On January 8, 2016, at approximately 9:09 am, respondent electronically filed a voluntary petition for a Chapter 13 bankruptcy for Curtis based on Buyer's representations. The petition included several misrepresentations by respondent to the Court:

- a. An electronic signature for Curtis after a disclaimer which read, "I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct." Respondent placed /s/ followed by Curtis's name (typed) on the signature line. However, Curtis did not examine the petition, sign any documents in connection with the bankruptcy nor consent to be represented by respondent at any time.
- b. Respondent electronically filed a certificate of credit counseling on behalf of Curtis, falsely indicating that Curtis went through credit counseling. However, at no time did Curtis undergo credit counseling.
- c. Respondent falsely declared and certified that he informed the debtor (Curtis) "about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code" and that he had "explained the relief available under each chapter for which the person is eligible." However, at no time did respondent contact Curtis prior to filing the petition and inform Curtis about eligibility and/or relief.

8. Respondent filed the Chapter 13 Voluntary Petition on behalf of Curtis for the sole purpose of stopping or delaying the trustee sale of her property. A Chapter 13 could stop a foreclosure and allow the debtor to cure a mortgage default before the lender sells the property. Respondent failed to file Schedules A through J, including a Summary and Statement of Financial Affairs with the bankruptcy petition. Prior to filing the petition, respondent had not contacted Curtis and did not have any knowledge of her financial affairs to reasonably determine whether she would be able to catch up on any missed payments through a Chapter 13 repayment plan.

9. Respondent sent an email to Bass at approximately 11:04 am, stating, "Please have her sign and return." Bass forwarded respondent's email to Curtis and Curtis responded, "I receive [*sic*] the documents regarding Involuntary Bankruptcy and not willing to sign." Bass sent Curtis an email informing Curtis that the bankruptcy had already been filed and that he believed that when Curtis stated she would "sleep on it," it meant that Curtis agreed to the filing of the bankruptcy.

10. On January 28, 2016, Curtis sent an email to respondent informing him that she has been "damaged" from the filing of the unauthorized bankruptcy. Respondent responded to Curtis, stating that he cannot rescind the bankruptcy and that it was filed in reliance on representations made by Buyer and Bass. Respondent further stated that due to the filing of the bankruptcy, the trustee sale was postponed and that it seemed to respondent that Curtis wanted "the benefit of the bankruptcy filing – namely, postponing the sale" so that Curtis could sell the property, without any adverse effects to her credit.

11. On February 1, 2016, respondent sent Curtis an email advising her that the purchase agreement between Curtis and Buyer remained in effect and Curtis's refusal to sell the property to Buyer was a breach of the lease agreement.

12. On March 1, 2016, the bankruptcy case was closed and dismissed for the failure to file initial petition documents within 72-hours.

CONCLUSIONS OF LAW:

13. By filing the Chapter 13 Voluntary Petition on behalf of Curtis without obtaining her consent, respondent appeared as attorney for Curtis without authority, in willful violation of Business and Professions Code, section 6104.

14. By filing a skeletal Chapter 13 Voluntary Petition on behalf of Curtis without having knowledge of Curtis's financial information and without her consent for the sole purpose of stopping or delaying the trustee sale of her property, respondent failed to maintain a legal or just action, in willful violation of Business and Professions Code, section 6068(c).

15. By filing a Chapter 13 Voluntary Petition and Certificate of Counseling, respondent misled the court by falsely indicating that respondent was the attorney for Curtis, that Curtis completed credit counseling, that Curtis electronically signed the petition, and that respondent informed Curtis about eligibility and relief sought under Chapter 7, 11, 12, or 13 of title 11 of the United States Code, in willful violation of Business and Professions Code, section 6068(d).

AGGRAVATING CIRCUMSTANCES.

Multiple Acts of Wrongdoing (Std. 1.5(b)): Respondent committed multiple acts of misconduct including appearing without authority, making misrepresentations to the court, and filing a meritless bankruptcy petition.

Significant Harm to Client, Public or Administration of Justice (Std. 1.5(j)): The bankruptcy filing on Curtis's record has harmed her credit rating and prevented her from obtaining a loan. Moreover, a Chapter 13 bankruptcy is deleted approximately seven years from the filing date; therefore Curtis will be harmed by its filing until 2023.

Indifference (Std. 1.5(k)): Respondent has displayed indifference and a failure to acknowledge his wrongdoing. Respondent blamed others such as Bass, Buyer and Curtis in trying to justify his conduct. In his response to the State Bar's investigation, respondent expressed his belief that Curtis sought to reap the benefits of the bankruptcy and that respondent reasonably acted in reliance on Bass's authority, although respondent had never communicated with Bass prior to the filing of the bankruptcy. Respondent took direction from Buyer and when placed on notice by Curtis that she had been damaged by his actions, he advocated on behalf of Buyer, advising Curtis to sell the property to Buyer.

MITIGATING CIRCUMSTANCES.

No Prior Discipline: Respondent does not have a prior record of discipline since being admitted to practice law in California on June 4, 2002. Respondent's 14-years of discipline-free practice at the time of the misconduct should be given significant weight in mitigation. (*Hawes v. State Bar* (1990) 51

Cal.3d 587, 596 [more than 10 years of discipline-free practice entitled to "significant" mitigation].) However, as explained in the analysis herein, due to respondent's indifference early in the investigation, the weight of this mitigating factor is diminished here. (*Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1029 [where misconduct is serious, long-term discipline-free practice is most relevant where misconduct is aberrational].)

Prefiling Stipulation: By entering into this stipulation, respondent is entitled to mitigation for saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaiht* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct "set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silvertown* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) "Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure." (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the member's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent admits to committing multiple acts of professional misconduct. Standard 1.7(a) requires that where a respondent "commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed."

The most severe sanction applicable to respondent's misconduct is found in standard 2.12, which applies to respondent's violation of Business and Professions Code section 6068(d). Standard 2.12 provides that disbarment or actual suspension is the presumed sanction for disobedience or violation of a court order related to the member's practice of law, the attorney's oath, or the duties required of an

attorney under Business and Professions Code section 6068(a)(b)(d)(e)(f) or (h). Here, in addition to appearing on behalf of Curtis without consent and maintaining an unjust action, respondent knowingly filed the Chapter 13 Voluntary Petition containing Curtis's electronic signature denoted by /s/, including a Certificate of Counseling, purporting to have been completed by Curtis. Curtis did not give respondent consent to place her electronic signature in the petition and Curtis denied ever completing a credit counseling course.

To determine the appropriate level of discipline, consideration must also be given to the aggravating and mitigating circumstances. Respondent's misconduct is surrounded by aggravating circumstances in that he committed multiple acts of misconduct which caused significant harm to Curtis including a negatively impacted credit rating which will reflect the filing of the Chapter 13 bankruptcy for seven years. Moreover, given that respondent demonstrated indifference towards his misconduct, there is reason to believe that his serious misconduct may recur. Thus, respondent's nearly 14-years of discipline-free practice at the time of the misconduct does not significantly mitigate the misconduct.

Based on the facts and circumstances in this case, taking into consideration the significant aggravation and the mitigating factor, respondent's misconduct warrants a substantial period of actual discipline. Therefore, a suspension for two years, stayed, conditioned on a two-year probation and ninety-day (90) actual suspension and compliance with rule 9.20 is appropriate discipline to protect the public, the courts and the legal profession, to maintain high professional standards, and to preserve public confidence in the legal profession.

Relevant case law supports the instant discipline recommendation. In *In the Matter of Regan* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844, the attorney was hired to pursue a claim against the City of Burbank on behalf of two clients. Both clients executed a retainer agreement and were in communication with Regan. After an initial complaint was filed, the court granted a summary judgment motion and dismissed the case. Thereafter, Regan filed a Notice of Appeal on behalf of his clients despite their express request for him not to. The Court found Regan culpable of pursuing an appeal contrary to the wishes of his clients, misleading the appellate court about his clients' wishes, failing to communicate with his clients and failing to turn over the client file upon request. Considering Regan's 17-years of discipline-free practice as mitigation, multiple acts of wrongdoing, lack of insight and significant harm in form of emotional distress suffered by the clients, the Judge recommended he be suspended for two years, stayed, on probation with conditions, including a seventy-five (75) day actual suspension.

In *Drociak v. State Bar* (1991) 52 Cal.3d 1085, the attorney was hired to represent a client in a personal injury action. Drociak had the client sign undated and blank verification forms. During discovery, the attorney answered interrogatories himself and attached one of the pre-signed verifications. The Supreme Court imposed a one-year suspension, stayed, two-year probation, and an actual suspension of thirty (30) days for violating Business and Professions Code sections 6068(d) and 6106. In mitigation, the Court considered the attorney's 25-years of discipline-free practice. In aggravation, the Court considered the attorney's act of having his client sign blank verifications and using pre-signed verifications posed a threat to the administration of justice. The Court also considered the attorney's lack of remorse.

Like Regan and Drociak, respondent engaged in misconduct intended to mislead the court. However, respondent did so, not even on behalf of a client, but, on the behest of a third-party who sought to gain from his acts. In so doing, respondent significantly negatively impacted a party who

never consented to his acts and who will suffer from them for years to come, and thereafter demonstrated indifference to having done so. Therefore, a significant actual suspension of 90-days, probation for two-years and a requirement that he notify current clients of his suspension, pursuant to California Rules of Court, 9.20, is appropriate.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of July 12, 2017, the discipline costs in this matter are approximately \$3,215. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MINIMUM CONTINUING LEGAL EDUCATION ("MCLE") CREDIT


Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: JUSTIN DRAYTON GRAHAM	Case number(s): 16-O-11526-YDR
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

August , 2017 Date	Respondent's Signature	Print Name
August , 2017 Date	Respondent's Counsel Signature	Print Name
August 25, 2017 Date	 Deputy Trial Counsel's Signature	Anita Kabaei Print Name

(Do not write above this line.)

In the Matter of:
JUSTIN DRAYTON GRAHAM

Case number(s):
16-O-11526-YDR

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

August , 2017

Date

Respondent's Signature

Print Name

August 24, 2017

Date

Respondent's Counsel Signature

Print Name

August , 2017

Date

Deputy Trial Counsel's Signature

Anita Kabaei

Print Name

(Do not write above this line.)

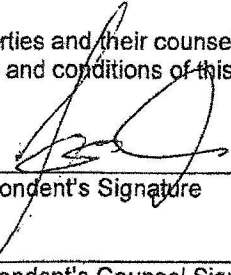
In the Matter of:
JUSTIN DRAYTON GRAHAM

Case number(s):
16-O-11526-YDR

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

August 21, 2017
Date


Respondent's Signature

Justin Graham
Print Name

August , 2017
Date

Respondent's Counsel Signature

Print Name

August , 2017
Date

Deputy Trial Counsel's Signature

Anita Kabaei
Print Name

(Do not write above this line.)

In the Matter of:

JUSTIN DRAYTON GRAHAM

Case Number(s):

16-O-11526-YDR

ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Date

September 20, 2017

YVETTE D. ROLAND

Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 21, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

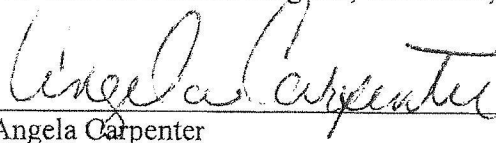
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ZACHARY D. WECHSLER
LAW OFFICE OF ZACHARY D. WECHSLER, APC
21515 HAWTHORNE BLVD
STE 610
TORRANCE, CA 90503 - 6547

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Anita Kabaci, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 21, 2017.



Angela Carpenter
Case Administrator
State Bar Court



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST November 6, 2017

State Bar Court, State Bar of California,
Los Angeles

By Elizabeth Allen
Clerk

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on January 18, 2018, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND
ORDER APPROVING with attachments

in a sealed envelope for collection and mailing on that date as follows:


- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JUSTIN D. GRAHAM
CULVER LAW GROUP
12777 W JEFFERSON BLVD
STE 300
LOS ANGELES, CA 90066 - 7034

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Timothy G. Byer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 18, 2018.



Angela Carpenter
Case Administrator
State Bar Court